

### **INTERVIEW SUMMARY**

The attorney of record argues that the Suzuki et al. reference cannot be considered as prior art in light of the declaration filed May 17, 2010. The examiner believes this declaration is insufficient in precluding Suzuki from being used as prior art for two reasons. First, applicant has not provided that Motoshi Suzuki has or has not made a contribution to the application in question. Secondly, the inventive entity of the current application and the prior art are shown to be different, therefore allowing the prior art to be used as a 102(a) reference. The attorney of record did not agree with the examiner's conclusion and cites MPEP 2132.01 as a basis for the sufficiency for the declaration. The examiners maintain that since the prior art reference is by "another" and was published or known before the application for patent, the prior art reference cannot be overcome unless applicant swears behind the reference.

See MPEP 715.01(a) and 716.10 for requirements of declarations to overcome a prior art under 35 USC 102(a).

### **CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIRK BASS whose telephone number is (571) 270-7370. The examiner can normally be reached on Mon - Fri (9am-4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

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/Krishnan S Menon/  
Primary Examiner, Art Unit 1797

/DRB/  
Dirk R. Bass